

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

**FEDERAL DEPOSIT INSURANCE
CORPORATION, as Receiver of
Sunrise Bank,**

Plaintiff,

V.

CIVIL ACTION NO. 5:13-CV-356 (MTT)

SRI SHAKTI INVESTMENTS LLC, et al.,

Defendants.

ORDER

Sunrise Bank filed this lawsuit in the Superior Court of Bibb County on December 17, 2012. (Doc. 1-1 at 2). After the bank failed, the Superior Court of Lowndes County appointed the Federal Deposit Insurance Corporation (FDIC) as receiver of the bank's business and property. (Doc. 1-7 at 2). The FDIC, as Receiver of Sunrise Bank, filed a motion to substitute itself as party plaintiff in place of the bank June 17, 2013. (Doc. 1-7 at 1). On September 19, 2013, the FDIC removed the case to this Court, 94 days after its motion to substitute was filed. (Doc. 1).

Pursuant to 12 U.S.C. § 1819, the FDIC may remove actions to which it is a party from a state court to the appropriate United States district court before the end of the 90-day period beginning on the date the FDIC is substituted as a party. 12 U.S.C. § 1819(b)(2)(B). “[B]y virtue of § 1821(d)(2)(A)(i)[,] the FDIC is automatically substituted for the failed institution as a matter of federal law the moment that it files a notice of substitution in court, and the 90-day removal period set forth in § 1819(b)(2)(B) begins

to run from the filing of that notice.” *F.D.I.C. v. North Savannah Properties, LLC*, 686 F.3d 1254, 1260 (11th Cir. 2012).

This lawsuit was removed more than 90 days after the Plaintiff filed its motion to substitute. Thus, it was not timely removed. The Plaintiff agrees this case should be remanded to the state court. (Doc. 5). Accordingly, this case is **REMANDED** to the Superior Court of Bibb County.

SO ORDERED, this 12th day of December, 2013.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT